

DELEGATION OF AUTHORITY

DATE: 8-15-2017

FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT

5-39. State Primary Enforcement Responsibility under the  
Federal Insecticide, Fungicide, and Rodenticide Act

1. PURPOSE AND AUTHORITY.

A. Purpose. To redelegate the authorities contained in Delegation 5-39 issued by EPA Headquarters on March 21, 2017 (administrative update).

B. Authority. To perform the functions and responsibilities under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) relative to:

- a. making general determinations about states' pesticide-use laws and plans pursuant to FIFRA, including the determinations referenced in Sections 26(a) and (b);
- b. executing primary enforcement responsibility for pesticide-use violations in states that do not have primary enforcement responsibility for pesticide-use violations, in accordance with FIFRA, including Section 26(c);
- c. referring any complaint or other information to the appropriate state officials for investigation and acting upon the complaint or information, if authorized, pursuant to the authority in FIFRA, including Section 27(a);
- d. making the determination that the U.S. Environmental Protection Agency should execute primary enforcement responsibility for any FIFRA violations where emergency conditions exist that require immediate action, and the state authority is unwilling or unable to adequately respond to the emergency in accordance with the authority in FIFRA, including Section 27(c);
- e. promulgating regulations requiring recordkeeping and reporting as authorized by FIFRA Section 26(a)(3);
- f. making a determination to rescind and providing, withdrawing, reissuing, modifying and publishing notice of intent to rescind state primary enforcement responsibility for pesticide-use violations in accordance with FIFRA, including FIFRA Section 27(b) and 40 C.F.R. Part 173;
- g. scheduling a hearing, appointing a presiding officer to preside over such hearing and to make a recommended decision and prescribing additional procedures governing the conduct of the hearing after consultation with

DELEGATION OF AUTHORITY

DATE: 8-15-2017

the state, as authorized by FIFRA, including 40 C.F.R. Part 173; and

- h. reviewing recommended decisions, as provided by 1.B.f. above, on appeal or *sua sponte* and issuing final orders pursuant to the authority in FIFRA, including 40 C.F.R. Part 173.

2. TO WHOM REDELEGATED.

A. The authorities stated above in 1.B.a. through 1.B.d. and 1.B.f. through 1.B.h. are redelegated to the Director, Office of Environmental Stewardship (OES).

3. REDELEGATION AUTHORITY.

A. The authorities in 1.B.a. through 1.B.d. may be redelegated to the Section Chief level, or equivalent, and no further.

B. The authorities in 1.B.f. and 1.B.g. above may be redelegated to the Branch Chief level, or equivalent, and no further.

C. The authorities in 1.B.h. above may not be redelegated.

D. An official who redelegates an authority retains the right to exercise or withdraw the authority. Redelegated authority may be exercised by any official in the chain of command down to the official to whom it has been specifically redelegated.

4. LIMITATIONS.

A. The Director, OES, or his/her designee, must receive concurrence from the Regional Administrator (RA) and the Assistant Administrator (AA) for the Office of Enforcement and Compliance Assurance (OECA) prior to exercising the authorities in 1.B.f. and 1.B.g.

B. The authorities in 1.B.a. through 1.B.d. and 1.B.f. through 1.B.h. may not be redelegated without the concurrence of the Regional Directives Officer, Human Resources Office, Office of Administration and Resource Management.

C. Prior to exercising the authorities in 1.B.a. through 1.B.d. above, the AA for OECA must notify the affected RA.

5. ADDITIONAL REFERENCES.

A. FIFRA Sections 26 and 27.

**ENVIRONMENTAL PROTECTION AGENCY  
REGION 1 - BOSTON**

**CLASS. NO.: 1200  
DELEGATION NO.: 5-39**

**DELEGATION OF AUTHORITY**

**DATE:** 8-15-2017

B. 40 C.F.R. Part 173, Procedures Governing the Rescission of State Primary Enforcement Responsibility for Pesticide Use Violations.

C. 48 Federal Register 404 (January 5, 1983), FIFRA, State Primary Enforcement Responsibilities (Final Interpretive Rule).

6. SUPERSESSION. None.



Deborah A. Szaro  
Acting Regional Administrator

8/15/17  
Date